

REMARKS

A. BACKGROUND

The present Amendment is in response to the final Office Action mailed January 5, 2009. Claims 36-39, 41-53, and 55-77 were pending and rejected in view of cited art.¹ Claims 40, 54, and 78-112 were withdrawn and claims 36, 38, 42-44, 50, 52, 56-58, 64, 66, 68-70, and 76 are amended. Claims 36-39, 41-53, and 55-77 are now pending in view of the above amendments.²

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

B. EXAMINER'S INTERVIEW

Applicant expresses their appreciation to the Examiner for conducting an interview with Applicant's representative on January 12, 2009. In the interview, Applicant and applicant's attorney discussed the references cited in the present Office Action and other references cited in previous Information Disclosure Statements and the Supplemental Information Disclosure Statement submitted herewith with respect to proposed and/or the present claim amendments. The substance of the interview is included in this response.

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should the need arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

² Support for the claim amendments and/or new claims can be found throughout the specification and drawings as originally filed.

C. PRIOR ART REJECTIONS

I. REJECTION UNDER 35 U.S.C. § 102(E)

The Office Action rejected claims 36, 38-39, 41-48, 50, 52-62, 64, 66-74, and 76 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,861,027 (*Trapp*). Applicant respectfully traverses the Office Action's rejection.

The Office Action noted that “[previously presented i]ndependent claims 36, 50, and 76 do not require any relative positions of ‘at least two of the transition sections’” (Office Action, page 2). Claims 36, 50, 64, and 76 have been amended to recite, in part, “transition sections being circumferentially adjacent;” “web patterns interconnected by circumferentially adjacent transition sections;” “apertures between circumferentially adjacent transition sections;” and “at least some of the transition sections between any two web patterns being circumferentially adjacent” to give the relative position of at least some of the “transition sections,” as recited in claims 36, 50, 64, and 76.

Furthermore, claims 36, 50, and 76 have been amended to recite, in part, “at least two of the transition sections being circumferentially adjacent and separated, around the circumference of the wall, by at least three webs, each web having three web sections, at least two web sections being nonparallel;” “web patterns interconnected by circumferentially adjacent transition sections separated, around the circumference of the wall, by at least two bends, each bend connected to at least two webs, each web having three web sections, at least two web sections being nonparallel;” and “at least some of the transition sections between any two web patterns being circumferentially adjacent and arranged around the circumference of the tube with a common orientation and offset by at least two intervening bends, each bend connected to at least two webs, each web having three web sections, at least two of web sections being nonparallel,” respectively. The Office Action has not cited, nor can Applicant find, any portion of *Trapp* that discloses these limitations.

The Office Action asserts that “*Trapp discloses . . . a stent structure . . . substantially as recited in the claims as indicated [in the marked up version of Trapp's Figure 4 shown below]*” (Office Action, page 2).

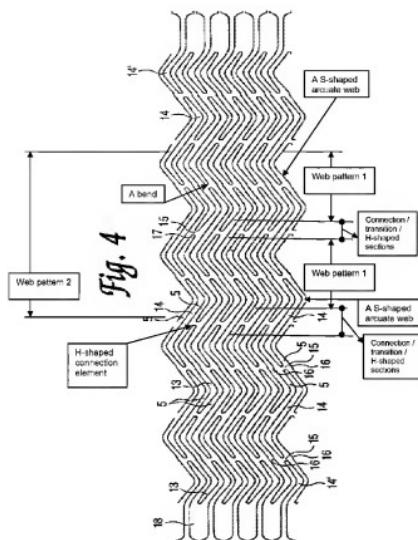


Fig. 4

From our discussions in the Examiner Interview and based on the Office Action, some of *Trapp's* "strengthened connection positions 15" are being considered as "bends" and some as "transition sections." However, based on our discussions the Office Action has not cited, nor can Applicant find, any portion of *Trapp* that discloses "circumferentially adjacent" strengthened connection positions 15 that are "separated, around the circumference of the wall, by at least three webs, each web having three web sections, at least two web sections being nonparallel," as recited, in part, by claim 36, "separated, around the circumference

of the wall, by at least two bends, each bend connected to at least two webs, each web having three web sections, at least two web sections being nonparallel," as recited, in part, by claim 50, or "offset by at least two intervening bends, each bend connected to at least two webs, each web having three web sections, at least two of web sections being nonparallel," as recited, in part, by claim 76.

Furthermore, from our discussions and based on the Office Action, *Trapp's* boundary elements 5 are being considered the same as "webs," as recited, in part, by claims 36, 50, and 76, Applicant respectfully submits that based on our discussions the Office Action has not cited, nor can Applicant find, any portion of *Trapp* that discloses "circumferentially adjacent" strengthened connection positions 15 "separated, around the circumference of the wall, by at least three" boundary elements 5 "having three web sections, at least two web sections being nonparallel," as recited in claim 36; "separated, around the circumference of the wall, by at least two bends, each bend connected to at least two" boundary elements 5 "having three web sections, at least two web sections being nonparallel," as recited in claim 50, or "offset by at least two intervening bends, each bend connected to at least two" boundary elements 5 "having three web sections, at least two of web sections being nonparallel," as recited, in part, by claim 76. Therefore,

Applicant respectfully submits that *Trapp* does not disclose, teach, or suggest each and every limitation of claims 36, 50, and 76.

The Office Action noted that “[a]s to independent claim 64, S-shaped openings of *Trapp*-’027’s Fig. 4 are considered as intercommunicating because they all are in the same cylindrical surface of the stent” (*Id.*). Claim 64 has been amended to recite, in part, “adjacent intercommunicating S-shaped openings.”

Furthermore, claim 64 recites, in part, “web patterns defining apertures between circumferentially adjacent transition sections, the apertures having two adjacent intercommunicating S-shaped openings.” Based on our discussions the Office Action has not cited, nor can Applicant find, any portion of *Trapp* that discloses this limitation.

Rather, based on our discussions the Office Action is considering that strengthened connection portions 15 are “transition sections” and apertures 13, 14 are “S-shaped openings,” Applicant respectfully submits that based on our discussions the Office Action has not cited, nor can Applicant find, any portion of *Trapp* that discloses apertures 13, 14 “having two adjacent intercommunicating S-shaped openings,” as recited, in part, by claim 64. Rather, as shown in *Trapp* Figure 4, each aperture 13, 14 defined “between circumferentially adjacent” strengthened connection positions 15 apparently at most has one aperture 13, 14 not “two adjacent intercommunicating S-shaped openings,” as recited, in part, by claim 64. Therefore, Applicant respectfully submits that *Trapp* does not disclose, teach, or suggest each and every limitation of claim 64.

Consequently, *Trapp* does not anticipate claims 36, 50, 64, and 76. Furthermore, based on our discussions, the Office Action has not cited, nor can Applicant find, any portion of *Zhong* or *Alt* that discloses, teaches, or suggests these limitations. Rather, *Zhong* was cited as “disclos[ing] a coating of heparin to inhibit clot formation” and *Alt* was cited as “disclos[ing] a stent having a gold plating as a radiopaque feature for viewing the stent in the body” (Office Action, page 4). Therefore, the Office Action’s proposed combination of *Trapp*, *Zhong*, and *Alt* does not disclose, teach, or suggest each and every element of independent claims 36, 50, 64, and 76 and dependent claims 38-39, 41-48, 52-62, and 66-74. Thus, Applicant respectfully requests that the rejection under 35 U.S.C. § 102(e) be withdrawn.

II. REJECTION UNDER 35 U.S.C. § 103(A)

The Office Action rejected claims 37, 49, 51, 63, 65, 75, and 77 under 35 U.S.C. § 103(a) as being unpatentable over *Trapp* in view of U.S. Patent No. 6,231,600 (*Zhong*), U.S. Patent No. 5,824,045 (*Alt*), or U.S. Patent No. 5,807,404 (*Richter*). Applicant respectfully traverses the Office Action's rejection.

As shown above, *Trapp* does not disclose, teach, or suggest "transition sections being circumferentially adjacent and separated, around the circumference of the wall, by at least three webs, each web having three web sections, at least two web sections being nonparallel;" "circumferentially adjacent transition sections separated, around the circumference of the wall, by at least two bends, each bend connected to at least two webs, each web having three web sections, at least two web sections being nonparallel;" "web patterns defining apertures between circumferentially adjacent transition sections, the apertures having two adjacent intercommunicating S-shaped openings;" or "transition sections between any two web patterns being circumferentially adjacent and arranged around the circumference of the tube with a common orientation and offset by at least two intervening bends, each bend connected to at least two webs, each web having three web sections, at least two of web sections being nonparallel," as recited, in part, by claims 36, 50, 65, and 76. Furthermore, based on our discussions the Office Action has not cited, nor can Applicant find, any portion of *Zhong* or *Alt* that discloses, teaches, or suggests these limitations.

Therefore, the Office Action's proposed combination of *Trapp*, *Zhong*, and *Alt* does not disclose, teach, or suggest each and every element of independent claims 36, 50, 64, and 76 and dependent claims 37, 49, 51, 63, 65, 75, and 77. Thus, Applicant respectfully requests that the rejection under 35 U.S.C. § 103(a) be withdrawn.

D. CONCLUSION

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any

Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as provide the required motivation or suggestion to combine references with the other art of record.

For at least the foregoing reasons, Applicant respectfully submits that the pending claims are neither anticipated by nor made obvious by the art of record. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 13th day of March, 2009.

Respectfully submitted,

/Paul N. Taylor, Reg.# 57271/

PAUL N. TAYLOR
Registration No. 57,271
Attorney for Applicant
Customer No. 57360
Telephone No. 801.533.9800

FDR:PNT
2245664_2.DOC